

"Approved by the City Council/Redevelopment Agency Board on August 13, 2008"

**CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF A REGULAR MEETING**

**WESTMINSTER, CALIFORNIA
July 23, 2008**

The City Council/Agency Board of the City of Westminster, California convened on July 23, 2008 at 6:05 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Boulevard, Westminster, California.

**6:00 P.M.
CLOSED SESSION**

CALL TO ORDER: 6:05 P.M.

ROLL CALL

**PRESENT: RICE, QUACH, FRY TA
ABSENT: MARSH**

Eddie Manfro, Director of Human Resources/Risk Management reported that there would not be discussion on Closed Session Item No. 1 on Somer Fox v. City of Westminster (Workers' Compensation Case).

CLOSED SESSION:

The City Council/Redevelopment Agency recessed to a Closed Session for the following purposes:

- 1) Conference with Legal Counsel pursuant to Government Code Section 54956.9(a); Existing Litigation: Woody Bragassa v. City of Westminster; Tenna Chon v. City of Westminster; Marcus Frank v. City of Westminster; and Somer Fox v. City of Westminster (Workers' Compensation cases).
- 2) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8
Property: 14452 Chestnut, Westminster
Agency Negotiators: Ray Silver, Executive Director; Tami Piscotty, Assistant to the City Manager
Negotiating Parties: Le Thao
Under Negotiation: Price and Terms of Payment
- 3) Pursuant to Government Code Section 54957: Public Employee Appointment: Director of Community Development

RECESS: At 7:00 p.m., Mayor Rice recessed the meeting held in the Council Conference Room.

7:00 P.M.

RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

Mayor Rice reconvened the meeting in the Council Chambers at 7:05 p.m.

ROLL CALL:

PRESENT: RICE, QUACH, FRY, TA

ABSENT: MARSH

SALUTE TO FLAG: Mayor Pro Tem Quach

INVOCATION: Mayor Pro Tem Quach

REPORT OUT OF CLOSED SESSION – None

SPECIAL PRESENTATIONS:

- A. The Mayor and Council Members presented Certificates of Recognition to the Mayor's Ball Sponsors.
- B. A presentation was given by Michael Hearst, Director of Communications, Orange County Vector Control, regarding the West Nile Virus and activities of the Orange County Vector Control.

REPORT FROM CITY CLERK ON LATE COMMUNICATION ITEMS

The City Clerk announced Late Communications regarding agenda items that had been received in the City Clerk's office following the distribution of the agenda packet.

Consent Calendar

Item No. 1.5 - Hoover Park Extension Conceptual Design

Correspondence received from Westminster resident, Leona LaCoe on July 22, 2008.

Item No. 1.11 – Scheduling of Joint Public Hearing on the 2008 Amendment to the Redevelopment Plan for the Westminster Infrastructure Project.

Memorandum from City Manager Ray Silver dated July 23, 2008 on the need to change the Public Hearing date from September 10, 2008 to September 24, 2008 at 7:00 p.m. and to amend Resolution Nos. 4170 and 193 to reflect the change.

Urgent Item (requested to be brought on to the agenda by the City Attorney's office) relating to Pacific Beach Village Corporation, that the City execute a Subordination Agreement, subordinating the City's trust deed to the recorded CC&Rs for the 12 Unit townhouse project located at 7861 23rd Street.

1. CONSENT CALENDAR**URGENT ITEM ADDED TO THE CONSENT CALENDAR**

Motion was made by Mayor Pro Tem Quach and seconded by Council Member Ta to bring an urgent item on to the agenda as the matter arose subsequent to the posting of the agenda and requires immediate action. The motion carried by a 4-0-1 vote. (See Item No. 1.17)

APPROVAL OF MINUTES**1.1 (City Council/Redevelopment Agency) Minutes of the Regular Meetings of the City Council/Redevelopment Agency of June 11, 2008 and June 25, 2008.**

ACTION: Approved.

ROUTINE MATTERS**1.2 (City/Agency) Renewal of Consulting Services Agreement with Comprehensive Housing Services, Inc. to continue to administer a variety of housing services in FY 2008-09. (502-03)**

ACTION: The Mayor/Chair and City Council/Agency Board approved the renewal of a Consulting Services Agreement with Comprehensive Housing Services, Inc for FY 2008-09; and authorized the City Manager/Executive Director to execute the Agreement on behalf of the City and Agency.

1.3 Designation of Colette's Children's Home as a Community Housing Development Organization (CHDO) for the City of Westminster. (502-03)

ACTION: The Mayor and City Council approved the designation of Colette's Children's Home as a Community Housing Development Organization and authorized the City Manager to execute the required HUD document for submittal to HUD.

1.4 Purchase Order for Police Department Software Updates and Maintenance with Cyrun Corporation for FY 2008-09. (502-03)

ACTION: The Mayor and City Council authorized a purchase order to Cyrun Corporation, a sole source vendor, for police department dispatching, records management, and Alliance PD Central software updates and maintenance in an amount not to exceed \$40,000.

(ITEM REMOVED AND HEARD SEPERATELY)**1.5 Hoover Park Extension Conceptual Design. (502-11) (Kobata)**

Ray La Coe, resident of Westminster, spoke in support of the extension only if a block wall is built. Mr. La Coe expressed concerns with parking and safety issues.

Rex Henry, resident of Westminster, spoke in support of the extension only if the block wall is built. He provided Council a presentation (on file in the City Clerk's office). Mr. Henry requested that Council have full funding for the park and the block wall before they move forward with the project.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Fry to install the block wall first, if funds are available, and then proceed with the conceptual design for the Hoover Park extension.

The motion carried by a 4-0-1 vote.

1.6 Disposal and Sale of City-Owned Property (Abandoned Well Site) at Bedford Lane (APN 098-271-25), and Quit Claim Two Unneeded Easements Around the Property (502-14) & (502-04)

ACTION: The Mayor and City Council:

- 1) Approved the disposal and sale of the subject property to the two adjacent property owners, Tu T. Doan of 9021 Oasis Avenue, and Eric Ngo of 9031 Oasis Avenue;
- 2) Quit claimed two easements associated with the Bedford Lane well site; and
- 3) Authorized the Mayor to execute the Purchase and Sale Agreements and Quit Claim Deeds on behalf of the City.

1.7 Contract Change Order for City-Wide CTB 05-06-07 Project. (502-01)

ACTION: The Mayor and City Council approved a contract change order to All American Asphalt in the amount of \$60,000 for City-Wide 05-06-07 project.

1.8 Professional Services Contract with Hugo Morales, Video/Audio Engineer for Fiscal Year 2008-2009. (502-13)

ACTION: The Mayor and City Council approved the contract with Hugo Morales in an amount not to exceed \$25,000 for the period July 1, 2008 through June 30, 2009, and authorized the City Manager to execute the contract on behalf of the City.

1.9 Option Year Renewal for Ambulance Billing Services for FY 2008-09. (502-03)

ACTION: The Mayor and City Council approved the option year renewal of the contract with Chupan Medical Computer Services (CMCS) in an amount not to exceed \$135,000 for the fiscal year 2008-09.

1.10 Extension of contractual services agreement with Melad & Associates to provide plan check and inspection services for fiscal year 2008-09. (502-13)

ACTION: The Mayor and City Council authorized a purchase order in an amount not to exceed \$60,000 for Melad & Associates to provide services for fiscal year 2008-09.

ORDINANCES (SECOND READING)/RESOLUTIONS**1.11 Scheduling of Joint Public Hearing on the 2008 Amendment to the Redevelopment Plan for the Westminster Infrastructure Project. (903-09)**

ACTION: The Mayor and City Council received and filed the report on the status of the proposed 2008 Amendment to the Redevelopment Plan for the Westminster Infrastructure Project and adopted Resolution No. 4170 entitled, "A Resolution of the Mayor and City Council of the City of Westminster Consenting To and Calling a Joint Public Hearing on the Proposed Adoption of the 2008 Amendment to the Redevelopment Plan for the Westminster Infrastructure Revitalization Project (Amendment Area No. 5)", as amended to reflect the date change of the Joint Public Hearing to September 24, 2008 and,

ACTION: The Chair and Agency Board adopted Resolution No.193 entitled, "A Resolution of the Chair and Agency Board of the Westminster Redevelopment Agency Consenting To and Calling a Joint Public Hearing on the Proposed Adoption of the 2008 Amendment to the Redevelopment Plan for the Westminster Infrastructure Revitalization Project (Amendment Area No. 5)" as amended to reflect the date change to the Joint Public Hearing to September 24, 2008.

ADMINISTRATIVE ITEMS**1.12 Fee Waiver Request from Boy Scouts and Girl Scouts for Use of the East/West Room at the Community Center. (702-06)**

ACTION: The Mayor and City Council approved the request for a Court of Honor event at the Community Center on Sunday, September 14th from 11 am – 5 pm.

WARRANT REGISTER

- 1.13 (City Council/Redevelopment Agency) Warrant Register dated July 2 through 15, 2008. (105-09) (08)**

ACTION: Approved.

INFORMATION AND REPORTS

- 1.14 Minutes of the Planning Commission meeting held June 18, 2008. (104-11)**

ACTION: Received and filed.

- 1.15 Community Development Monthly Activity Report – June, 2008. (216-01) (08)**

ACTION: Received and filed.

- 1.16 Minutes of the Energy Committee Meeting held July 3, 2008. (104-07)**

ACTION: Received and filed.

URGENT ITEM ADDED TO CONSENT CALENDAR

- 1.17 Pacific Beach Village Corporation – Execution of a Subordination Agreement Subordinating the City's Trust Deed to the Recorded CC&Rs for the 12 Unit Townhouse Project Located at 7861 23rd Street. (502-16)**

ACTION: The Mayor and City Council authorized the City Manager to execute the subordination agreement and record the subject documents.

Motion was made by Mayor Pro Tem/Vice Chair Quach, and seconded by Council/Agency Member Ta, to approve the Consent Calendar, with the exception of Item No. 1.5 which was removed for separate consideration. The motion carried by a 4-0-1 vote. (Council/Agency Member Marsh absent)

END OF CONSENT CALENDAR

2. ORAL COMMUNICATIONS

Katherine M. Beltran, resident of Westminster, spoke to Item 1.5; she requested to have a restroom installed for the visitors of the park.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW**3.1 The actions of the Planning Commission meeting held on July 16, 2008.**

RECOMMENDATION: That the City Council determine if they wish to call up any items for review from the Planning Commission meeting of July 16, 2008.

- 1) Case 2007-83 a Site Plan and Design Review for a construction of recreational clubhouse and leasing office at 14452 Goldenwest Street.
- 2) Case 2008-33 a Tentative Parcel map and Variance to subdivide a parcel into two parcels and variances from development standards involving a previously approved development (currently under construction) consisting of retail and self storage at the northeast corner of Beach Boulevard and Edinger Avenue
- 3) Case 2008-27 a code amendment to Title 16 to require the payment of park in-lieu fees prior to the issuance of building permits instead of certificate of occupancy.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Ta to receive and file.

The motion carried by a 4-0-1 vote.

SPECIAL PRESENTATION

Mayor Rice presented Don Anderson, Community Development Director, a Certificate of Recognition and Appreciation for 37 years of dedication and service to the City of Westminster.

4. PUBLIC HEARINGS**4.1 CASE NO. 2008-08 – (CONDITIONAL USE PERMIT) – APPEAL OF PLANNING COMMISSION'S DENIAL OF A CONDITIONAL USE PERMIT TO ALLOW ENTERTAINMENT AT AN EXISTING RESTAURANT THAT SERVES BEER AND WINE AT 15579 BROOKHURST STREET (A.P. NUMBER 143-142-07; APPLICANT/APPELLANT: DAISY VAN KIM. (201-00) (CN 2008-08)**

Art Bashmakian, Planning Manager, provided a brief history of the project and provided pictures (on file in the City Clerk's office) of the site.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THIS ITEM.

James P. Lindenman, attorney for the applicant/appellant, recited quotes from the Ronson vs. Alcoholic Beverage Control as the premise for Council to give the applicant the opportunity to present evidence in this matter.

Ms. Daisy Van Kim, applicant, illustrated a picture of the location of her restaurant on the overhead projector (on file in the City Clerk's office). Ms. Kim requested a permit for live entertainment karaoke between the hours of 8:00 p.m. to 11:00 p.m. She stated that the adjacent businesses close at 6:00 p.m. and that her live entertainment karaoke hours would not present noise or parking problems for the other businesses because they are closed. Ms. Kim asked Council to grant the permit because her business has suffered due to the lack of live entertainment karaoke for the past six months.

Christopher Brooks, of Sam Ash in Huntington Beach, prepared and presented a video (on file in the City Clerk's office) using a decibel meter to measure the noise level of the karaoke that would be played at the restaurant if the permit is granted.

MAYOR RICE ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION OF THIS ITEM.

Officer Richard Mize, Special Investigation Unit of the Westminster Police Department, stated that in January, 2008, officers responded to a noise complaint at the Quang Mai Hong Restaurant on Brookhurst Street and found live entertainment karaoke being performed without a conditional use permit. Ms. Kim, the owner, was warned by the officers that she could not operate live entertainment karaoke without a conditional use permit. Officer Mize stated that Ms. Kim does not operate the business in a legal manner. Ms. Kim was arrested at her restaurant for attempting to bribe an Associate Planner and an undercover police officer working on her conditional use permit. In March, after Ms. Kim's arrest, she was told again not to have live entertainment karaoke and was still found in violation. Staff believes that the information is compelling that Ms. Kim does not operate in a legal manner, which is why it is requested that the conditional use permit be denied.

SPEAKING IN REBUTTAL:

Ms. Kim said that at the administrative hearing with the Chief of Police she gave testimony that officers had violated her civil rights. She said that she received a letter from Chief Hall saying that he was not going to take any further action to revoke her permit. Ms. Kim provided details of her testimony from the administrative hearing to the Council. She stated that the first time the officers went to check on the restaurant she did not have live entertainment karaoke, just a professional recording playing. Ms. Kim stated that within 16 days officers came to her restaurant seven times and scared her customers away. Ms. Kim pleaded to be approved for two or three hours of live entertainment karaoke and agreed to any restrictions that the Police Department and the Council impose to maximize the security of her business.

THERE BEING NO FURTHER SPEAKERS, MAYOR RICE CLOSED THE PUBLIC HEARING.

Council Member Ta said that cannot support the applicant on the basis of the police report with the violations at the restaurant.

Mayor Pro Tem Quach he is concerned that Ms. Kim needs a live entertainment permit to make ends meet. Other restaurants that do not have live entertainment do well. He believes the excessive drinking is a problem.

Mayor Rice expressed strong concerns with the trouble at the restaurant and believes that the applicant knew that a conditional use permit was needed for live entertainment karaoke.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Fry to adopt without prejudice Resolution No. 4169 entitled: "A Resolution of the Mayor and City Council of the City of Westminster upholding the Planning Commission's denial of a Conditional Use Permit (CUP) to allow entertainment at an existing restaurant that serves beer and wine located at 15579 Brookhurst Street (Assessor's Parcel Number 143-142-07) (Case No. 2008-08)."

The motion carried by the following vote:

AYES: RICE, QUACH, FRY, TA
NOES: NONE
ABSTAIN: NONE
ABSENT: MARSH

4.2 WEED ABATEMENT COST REPORT – FALL 2007 AND SPRING 2008.
(618-01) (08)

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OR OPPOSITION OF THIS ITEM.

THERE BEING NO SPEAKERS IN FAVOR OR IN OPPOSITION, MAYOR RICE CLOSED THE PUBLIC HEARING.

Motion was made by Council Member Ta, and seconded by Council Member Fry to:

- 1) Receive and confirm the cost report;
- 2) Adopt Resolution No. 4168 entitled, "A Resolution of the Mayor and City Council of the City of Westminster confirming report of cost of weed abatement, Fall 2007 and Spring 2008 on lots within the City of Westminster", and
- 3) Authorize the City Clerk to submit the report to the County Assessor and County Tax Collector.

The motion carried by the following vote:

AYES: RICE, QUACH, FRY, TA
NOES: NONE
ABSTAIN: NONE
ABSENT: MARSH

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Mayor Pro Tem Quach expressed sadness upon the retirement of Don Anderson, Community Development Director. He thanked him for his years of service.

Council Member Fry thanked Don Anderson for enlightening the days with his different Disney ties. He said that the Council will miss him very much. He suggested that City staff contact the owners/brokers that are trying to sell the foreclosed houses in the City to have them maintain their lawns and to report the swimming pools to avoid the stagnant water that breeds mosquitoes.

Council Member Ta thanked Don Anderson for everything he has done for the City and the community. Council Member Ta wished Council Member Fry a Happy Birthday which was on Friday, July 18, 2008. He reported that Mayor Rice, Council Member Fry and he attended the Tenshinkai Aikido Federation event at the Rose Center. Council Member Ta reminded everyone of the Relay for Life event next month and encouraged support of the event.

Mayor Rice thanked the Council for representing her at last Sunday's event. She thanked Don Anderson and is honored to call him her friend.

5.2 AB 1234 Reports – None

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 Transfer Funds from the Water Utility Restricted/Unrestricted Fund to the Utility Production and Supply Water Conservation Fund. (105-12) (08)

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Fry to approve a budget transfer of \$13,102 from the Water Utility Restricted/Unrestricted fund balance to Utility Production and Supply Water Conservation.

The motion carried by a 4-0-1 vote.

6.2 Increase Police Budget to Include Funds Donated by Interval House to Assist the Family Protection Unit. (105-12) (08)

Motion was made by Council Member Ta, and seconded by Mayor Pro Tem Quach to approve an increase to the Police Department fiscal year 2008-09 budget by \$10,000 authorizing the transfer of funds as follows:

- a) General Fund Undesignated Unreserved Fund Balance to the Computer Equipment Account in the amount of \$8,500.61; and
- b) General Fund Undesignated Unreserved Fund Balance to the Special Department Expenses Account in the amount of \$1,499.39.

The motion carried by a 4-0-1 vote.

6.3 (City/Agency) New Police Building Architectural and Engineering Contract Amendment. (502-04)

Motion was made by Council Member Ta, and seconded by Council Member Fry to approve Amendment No. 1 to the Agreement for Professional Architectural/Engineering Services with DMJM H&N in an amount not to exceed \$966,995.000 for additional services to be included in the scope of work, and authorize the City Manager to execute the amendment on behalf of the City.

The motion carried by a 4-0-1 vote.

Motion was made by Agency Member Ta, and seconded by Agency Member Fry to approve a budget transfer in the amount of \$300,000 from the Redevelopment Operating Fund Contingency to the Capital Improvement Project – Police Facility Construction.

The motion carried by a 4-0-1 vote.

6.4 Second Amendment to the Catering and Concession Services Agreement for the Westminster Rose Center. (502-03)

Council Member Fry expressed concern with the parking challenges with the construction of the new police facility and the need to make provisions to the contract.

Mayor Rice said she prefers to leave the contract as it is during the new police building construction period.

Ray Silver, City Manager, stated that the catering company would prefer to have the rent \$7,500 per month through the remaining years of the construction/contract. He recommended a compromise with the caterer that rather than have the rent go up from \$7,500 a month to \$10,000 a month effective August 1, 2008, it would stay at \$7,500 a month for the period August 1, 2008 to August 1, 2009.

Motion was made by Council Member Ta, and seconded by Mayor Pro Tem Quach to approve the Second Amendment to the Agreement with Crystal Consulting and Management, Inc. dba Crystal Rose Catering, and authorize the City Manager to execute the amendment on behalf of the City. The rent will remain at \$7500 a month from August 1, 2008 to August 1, 2009. The Caterer has the right to come back to Council to request a continuation of the \$7,500 before the next year's scheduled increase rather than accept the additional increases.

The motion carried by a 4-0-1 vote.

6.5 City-Wide Electronic Document Management System (EDMS) and Scanning and Indexing Services. (502-05) & (502-01) & (502-08)

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Ta to:

- 1) Award a contract to ECS Imaging, Inc. in an amount not to exceed \$130,000 for the purchase, installation and customization of Laserfiche software for the City's City-Wide Electronic Content Management System (ECMS) and Electronic Document Management System (EDMS); and
- 2) Award a contract to American Microlmaging (AMI) in an amount not to exceed \$550,000 for scanning, indexing and quality checking services.
- 3) Authorize a purchase order to Hewlett-Packard in the amount of \$19,388.60 for the purchase of a fileserver and backup system.

The motion carried by a 4-0-1 vote.

7. WRITTEN COMMUNICATIONS (Public) –None.

8. LEGISLATIVE ITEMS –None.

9. COMMISSION AND COMMITTEE ITEMS

9.1 Appointment to the Traffic Commission (Mayor Rice's Appointee) (104-12)

Motion was made by Mayor Rice, and seconded by Council Member Ta to appoint Alin Hamade to serve on the Traffic Commission for a term ending November, 2008.

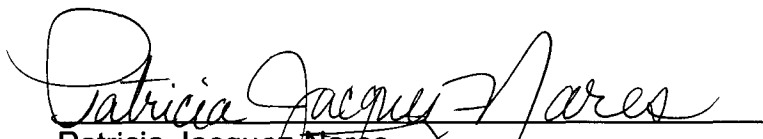
The motion carried by a 4-0-1 vote.

9.2 Appointment of a Regular Member to the Cultural Arts Commission (Mayor Rice's Appointee) (104-06)

Motion was made by Mayor Rice, and seconded by Council Member Ta to appoint Miriam Aguillares to serve on the Cultural Arts Commission for a term ending November, 2008.

The motion carried by a 4-0-1 vote.

- 10. COUNCIL/AGENCY ADJOURNMENT:** At 8:55 p.m., Mayor/Agency Chair Rice adjourned the meeting in honor of Don Anderson, Community Development Director, to Monday, July 28, 2008 at 5:00 p.m. in the Council Chambers, 8200 Westminster Boulevard, Westminster, California for the purpose of an update on the progress of the new police facility.


Patricia Jacquez-Nares
Assistant City Clerk/Acting Agency Secretary